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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Notice of Finding on Petition To List Three Invertebrates**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces a 90-day petition finding for a petition to amend the List of Endangered and Threatened Wildlife and Plants. The petitioners did not present substantial information that listing *Caecidotea near tridentata* and *Crangonyx* sp. may be warranted. Nor did they present substantial information that the Clanton's cave amphipod, *Stygobromus clantoni*, should be emergency listed. The Service has previously determined that listing *S. clantoni* is warranted but precluded.

**DATES:** The finding announced in this notice was made on January 25, 1990.

**ADDRESSES:** Questions or comments concerning this finding should be sent to: State Supervisor, U.S. Fish and Wildlife Service, Fish and Wildlife Enhancement, 315 Houston Street, Suite E, Manhattan, Kansas 66502. The petition, finding, and supporting data are available for public inspection, by appointment, during normal business hours at the above address and at the Service's Denver Regional Office, 134 Union Boulevard, Lakewood, Colorado (mailing address: P.O. Box 25488, Denver Federal Center, Denver, Colorado 80225).

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel W. Mulhern at the Manhattan address above (913/539-3474).

**SUPPLEMENTARY INFORMATION:****Background**

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended in 1982 (16 U.S.C. 1531 et seq.), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum

extent practicable, this finding is to be made within 90 days of receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service also is required to promptly commence a review of the status of the involved species.

**Petition:** The Service has received and made a 90-day finding on the following petition:

A petition dated September 13, 1989, was received from the Kansas Speleological Society and the National Speleological Society on September 22, 1989. The petition requested the Service to issue emergency rules to add to the List of Threatened and Endangered Species and/or designate critical habitat for three species of cave invertebrates: Clanton's cave amphipod, *Stygobromus clantoni*; an undescribed amphipod, *Crangonyx* sp.; and an isopod, tentatively identified as *Caecidotea* near *tridentata*, which has subsequently been identified as *C. acuticarpa*.

The petition indicated that emergency rules were necessary to prevent the destruction of Stone Cave in Butler County, Kansas, from which the organisms had been documented. Planned construction of a maximum security correctional institution, known as the El Dorado Valley View Prison, was cited as a threat to the cave's existence. The area proposed for prison construction is on a limestone ridge which runs from southeast to northwest across the site. Stone Cave, the entrance of which is at the southeast end of the ridge, was believed to run under this ridge through the proposed construction site.

The petitioners further contended that the project would destroy the cave below the prison, blocking subterranean water flow through it and eliminating the occurrence of these organisms. However, at the time of the petition it was not known whether or not any passage from Stone Cave did, in fact, occur beneath the proposed prison site.

**Service Information:** A review by the Service's State Office of Fish and Wildlife Enhancement in Manhattan, Kansas, determined that very little is known about any of these species, other than the few occurrences reported for each. It was further determined that there is no conflict between the proposed construction site and the existence of Stone Cave. *S. clantoni* is already being addressed by a 1974 petition to the Service; an administrative finding indicated that listing was warranted but precluded (49 FR 2485-2488, January 20, 1984).

The Kansas Department of Wildlife and Parks included *S. clantoni* in a 1986

evaluation of species for possible addition to their own list of endangered species. They were unable to obtain sufficient status data, and no listing action was taken. They have no survey data on record for any of the three species.

The Kansas Natural Heritage Program provided the occurrence data cited in the petition. They further responded to our inquiry by citing an overall lack of general biology or range-wide status information for any of these species, questioning the soundness of a listing decision based upon such a paucity of data.

The Kansas Geological Survey informed the Service by letter dated October 24, 1989, that their survey results gave no clear indication that the proposed construction would result in adverse impacts to the cave system. Although they indicated that the possibility could not be ruled out that the cave might occur beneath the proposed site, they believed there were construction techniques available which could be implemented to avoid destruction of the cave. Similar information was provided by a consulting firm under contract to the Kansas Department of Corrections.

At the request of many of the involved parties, a physical survey of the cave was conducted on November 8, 1989, in an attempt to map the passages to determine if a possible conflict existed with the prison site. Participating in this survey were representatives of the Kansas Biological Survey, Kansas Division of Water Resources, the National Speleological Society, and the city of El Dorado. Due to an excess of water and a shortage of oxygen, the group was unable to survey to the extent they had wanted. But their preliminary findings, although inconclusive, indicate that Stone Cave does not extend beneath the proposed site.

The Missouri Department of Conservation has indicated that they do not recommend listing of any of these species, because of the lack of status information for *S. clantoni* and *C. near tridentata* and the poor taxonomic definition of *Crangonyx* sp. They recommended survey work be conducted on these organisms. The Missouri Natural Heritage Inventory informed us that specimens of the genus *Caecidotea* are very common in Missouri, but taxonomically separating *tridentata* is difficult. They have no data on its abundance, distribution, or occurrence.

Dr. John Holsinger, an amphipod specialist in Norfolk, Virginia, aided with the identification of the specimens taken from Stone Cave. He concurred

that inadequate survey work had been done on these species but believed that *S. clantoni* may, in fact, warrant threatened status. Dr. Thomas Bowman, an isopod specialist with The Smithsonian Institution, informed us that *Caecidotea near tridentata* was originally described from northeast Kansas and previously was common along the Kansas and Marais des Cygnes River Basins. He suggested it also may possibly occur in Oklahoma, Missouri, and Nebraska. On December 5, 1989, Dr. Bowman positively identified *C. near tridentata* as *C. acuticarpa*, previously known only from Oklahoma.

After a review of the petition, accompanying documentation, references cited therein, and additional information obtained, the Service found the petition presented information insufficient to conclude that the requested actions may be warranted.

#### Author

This notice was prepared by Daniel W. Mulhern (see ADDRESSES).

#### Authority

The authority for this action is 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1543; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Fish, Marine mammals, Plants (agriculture).

Dated: March 21, 1990.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

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